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Crow Country

TESTIMONY OF CEDRIC BLACK EAGLE
CHAIRMAN, CROW NATION

before the

COMMITTEE ON FINANCE
UNITED STATES SENATE

FIELD HEARING ON
HEALING IN INDIAN COUNTRY:
ENSURING ACCESS TO QUALITY HEALTH CARE

August 8, 2012

INTRODUCTION

Shoodashee! Good morning Chairman Baucus, members and staff of the Senate Finance Committee. Welcome to the Crow Reservation, home of the Apsaalooke Nation, also known as the Crow Tribe of Indians. Thank you for the opportunity to share the views and concerns of the Crow Nation on the Indian Health Service and the current state of healthcare on the Crow Indian Reservation.

BACKGROUND

The Crow Nation is a sovereign government located in southeastern Montana. The Crow Nation has three formal treaties with the federal government, concluding with the Fort Laramie Treaty of May 7, 1868. The Crow Reservation originally encompassed most of Wyoming and southeastern Montana. Through a series of treaties, agreements, and unilateral federal laws over a 70 year span, Crow territory was reduced by 92% to its current 2.2 million acre area.

Today, there are over 13,000 enrolled citizens of the Crow Nation, with approximately 8,000 of those residing within the exterior boundaries of the Reservation. Additionally, a recent study indicates that the tribal population will exceed 20,000 citizens by 2015, which will add

further stress to our fragile developing economy, and sharply increase the level of basic human services needed by our population.

Our goal is to bring more of our citizens to return home to live and resume their role in the tribal community and our culture. We have long emphasized the importance of education and obtaining a college degree to our tribal members, and we want to be able to tell them that if they come home to work for their people, they will not want for basic services such as accessible and quality health care. We also want to see Crow Tribal members hired for positions at the Crow Service Unit when they have worked hard to become qualified to serve their community and fellow tribal members. The recent hire of Clayton Old Elk as CEO of the Crow Service Unit is commendable and is a notable step in the right direction.

The Crow Service Unit serves the highest user population within the Billings Indian Health Service Area. As of FY 2010, we served a user population of 13,469 individuals, and there is no doubt that number should be much higher today. The Northern Cheyenne Service Unit serves an additional 6560 individuals, many of whom come to Crow-Northern Cheyenne Hospital for services that are not available at the Lame Deer Clinic. The urban Indian population in Billings places an additional burden on the Crow-Northern Cheyenne Hospital for services that are not available or are limited at the Indian Health Board clinic in Billings.

1. The State of Accessible Quality Health Care at the Crow Service Unit

As noted by Dr. Yvette Roubideaux, the current director of Indian Health Service, "[t]he provision of health care services to American Indians and Alaska Natives is a key component of the federal government's trust responsibility[.]" The stated goal of the Indian Health Service, as set out in its mission statement, is "to ensure that comprehensive, culturally acceptable personal and public health services are available and accessible to American Indian and Alaska Native people." I must say that today, as things are, the Indian Health Service is deficient in this trust responsibility to the Crow Nation. The needed services are not readily accessible to the Crow people on a consistent basis.

Over the past two years, I have written a number of letters to Dr. Roubideaux detailing the concerns of the Crow Tribe regarding the state of the Crow Service Unit. I have met, along with key tribal staff, with Dr. Roubideaux and her staff, as well as Billings Area and Crow Service Unit staff, to continue this dialogue. We have had fairly consistent monthly meetings with Billings Area staff, and weekly update meetings with the Service Unit staff. Our response from Headquarters has been minimal. We were informed that they have delegated response to the Billings Area office. However, as many of our concerns directly implicated performance and accountability of the Billings Area office, we feel that headquarters should be more responsive to the Crow Tribe, rather than delegating its response to Area Office staff. To date, we have not received a responsive reply in writing from Dr. Roubideaux.

a. CMS Survey

In September 2010, CMS conducted a survey of the Crow-Northern Cheyenne Hospital that confirmed and documented what the Crow Tribe conveyed to Dr. Roubideaux in our initial meeting with her on August 25, 2010 -- both physical plant issues as well as internal management policy and accountability failures. Through the survey, CMS found and documented a number of shocking and significant shortcomings in the facility. The findings are set out in a stack of papers that is approximately nine inches thick, and range from shortcomings in the facilities to recordkeeping to quality patient care issues reflected in a sampling of patient charts. Our concern is that if the Crow-Northern Cheyenne Hospital loses its accreditation with CMS, we will see a further scaling back of even the very basic services that are offered today. Our community cannot afford to lose any additional services or funding at the Crow Service Unit. Even more importantly, the deficiencies documented by CMS are cause for alarm because they reflect a facility that has been poorly managed and neglected in many key areas, which has impacted the level of patient care ultimately delivered to the community served by the facility.

In short, the facility that the majority of the Crow people rely on is broken, has been poorly managed, and in many cases presents a danger to the health and welfare of the Crow people. We have yet to receive any verification as to whether the Corrective Action Plan that was to be implemented has been accepted, or whether a comprehensive Corrective Action Plan actually exists.

b. Community Concerns

One of the main areas of concern for my administration is the ongoing and consistent volume of patient complaints that are brought to our attention. We believe that there are many good and dedicated individuals working for the Crow Service Unit. I want to commend the dedication of many Crow Service Unit employees who have continued to work to improve the system through many upheavals and challenges, especially over the most recent several years. However, even the best team will fail without consistent leadership and a system which holds individual employees accountable for their failures. And the lack of accountability leads to repeat violations of patient rights, which reflects badly on the entire Crow Service Unit.

Community members bring a wide variety of issues to my office, but one of the most consistent issues is the perception that providers do not listen, and do not treat them with respect. A communication barrier may exist because of cultural differences. This can be alleviated with appropriate training, which the Crow Tribe can and has begun to assist with. However, there may be a deeper seated issue than simple lack of cultural sensitivity. When multiple patients, consistently, are not given routine tests and screenings, and are repeatedly sent home with aspirin or ibuprofen, and finally go to an off-reservation facility to be admitted immediately and treated for life-threatening conditions within hours of being sent home from the Crow hospital, something is very wrong. There is more than a simple breakdown in communication. There is a pattern of disregarding legitimate patient concerns.

Our community members repeatedly inform us that they finally lost patience with being sent home from the Crow hospital with ibuprofen and went to an off-reservation facility. This

often means incurring substantial medical bills that they will be personally responsible. They also report that outside providers are consistently appalled at the reported dismissal of serious health complaints, acute symptoms, and the lack of follow-up and monitoring of serious health issues by providers at the Crow Service Unit.

Every Crow Tribal member has the right to be seen by a provider for his/her medical issues, to be treated and, when possible, healed. If complete healing is not possible, then the individual has a right to be made comfortable and to be returned to the fullest physical and mental functionality as possible. It should not matter if that person is an addict, or if they are overweight. These are diseases within themselves, but they are often treated as an excuse to abbreviate communication with a patient, to curtail treatment, and to disregard the patient's legitimate needs. This absolutely has to stop. It is a violation of medical ethics and a violation of the trust responsibility that is owed to every Crow Tribal member.

Another issue is the amount of time that it takes to see a provider for even basic health issues. The understaffing and unavailability of providers is an issue that must be addressed more aggressively. We understand that there are additional providers coming on board, and we are encouraged by that news. We hope that permanent staff will be brought in to address the chronic physician and midlevel provider shortage at the Crow Service unit. Temporary contract doctors have been used to fill the gaps, but these place additional strains on our already tight budget. Additionally, these temporary doctors do not develop the connections with and knowledge about their patients that are ideal, and do not instill the trust of the individual patients or the community as a whole.

c. Limited Availability of Outpatient Services Impacts the Service Unit

Currently, the Crow-Northern Cheyenne Hospital is not operating a walk-in outpatient clinic. Patients have to come in the morning and sign up for appointments for that day. Patients come in at 7:30 a.m. to line up for the appointments window, which opens at 8:00. When the available slots are filled, there are no additional patients scheduled for outpatient clinic that day. Patients cannot call in to make appointments. This system is inadequate at best. Some patients who cannot get into outpatient end up in the Emergency Room, often for serious but not emergency issues. This compromises the level of service provided by the Emergency Room. One patient reported a wait time or 6 hours at the ER within the past month. The patient finally left without being seen.

Patients with private insurance or who have Medicare or Medicaid coverage are choosing to go elsewhere to receive health care, because of the unpredictability of whether a provider or an appointment will be available to them at the Crow Service Unit. Third party billing has declined dramatically over the past two years as outpatient services have been changed and limited in various ways. (See Exhibit 1) For example, in 2010, the total collected from Medicare/Medicaid and private insurance was $7,106,472.00. In 2011, the total was $7,291,109. The total collected to date in 2012 is $5,664,955. The decline in third party billing collections is most dramatic in Medicare collections, where $2,130,212 was collected in 2010, $1,717,974

collected in 2011, and $869,655 collected to date in 2012. In short, the scaling back of services and availability of outpatient care has forced patients with the ability to go elsewhere – and pay – to leave the Crow Service Unit. The decline in third party collections will impact the hospital by causing a decline in revenue, and, ultimately, a decline in the user population, if this trend continues.

2. *Budget Increases are Needed to Maintain and Upgrade the Service Unit Facilities and to Address Crow Patients' Health Care Needs*

I read last week that President Obama has requested a 2.7 percent increase in the Indian Health Service budget for FY 2013. That is, indeed, good news, and a step in the right direction. I hope every member of the Finance Committee will vote in support of this proposed increase because it is justified. However, the need is far greater and requires a systematic dedication of additional resources over more than just one budgetary year.

Several items needed by the Crow Service Unit, for which funding is currently not available within our budgets include:

- An upgrade for the outdated phone system for the hospital and clinics - $350,000
- The hospital and clinics have approximately $2 million in upgrades for medical equipment. We currently receive $130K/year for medical equipment replacement, which barely makes a dent in the need.
- Replace existing dental operatory's records to digital - $500,000 – this would enable dental to use EHR.
- We currently have $2,740,432.00 in deficiencies for the hospital and clinics, which includes various building deficiencies that need to be addressed.
- The Indian Health Care Improvement Act, as permanently reauthorized through the Affordable Care Act, authorized Indian Health Service to operate dialysis services. However, there is no funding provided for these programs. We currently transport our tribal members who receive dialysis three times a week to either Billings, MT or Sheridan, WY – distances averaging anywhere from 30-70 miles or more each way, over roads that are often nearly impassable during the harsh Montana winter months. Funding for dialysis onsite at Crow Agency would improve the quality of life and the long-term prognosis for these patients.

Furthermore, we were informed by Area Office staff that the Emergency Room services are basically unfunded. This puts an additional demand of approximately $5 million on the Crow Service Unit budget. Because Crow is a Critical Access Hospital, meaning that the ER cannot turn anyone away for ER services, this is an additional burden on a budget that is already insufficient to meet the health needs of the Crow Tribe. Emergency Room services should be

fully funded and appropriations should be made to provide for the services provided to all members of the community.

The Catastrophic Health Emergency Fund ("CHEF") is another area where additional funds are needed. This fund provides for accidents and serious medical emergencies where the costs are unforeseeable. However, there are shortfalls each year which are then deducted from the Service Unit's budget. According to figures provided by the Billings Area Office, in FY 2010, unfunded CHEF costs were $135,210; in FY 2011, the unfunded CHEF costs were $1,033,462, and in FY 2012, the unfunded costs to date are $319,072. (See Exhibit 2).

The current budget shows a fairly consistent rate of funding for most areas of service, operations, and facilities. (See Exhibit 3). However, it is telling that as the years progress, our population increases and places higher demands on the services and providers available. The facility needs repairs and upgrades as it ages. The needed expansions in services and additional providers, as well as scheduled upgrades and repairs to the facility are not funded. The current budget has already been shown to be insufficient, as the Service Unit has consistently operated with a shortfall of around $2 million each year, which is then made up from the following year's third party collections.

3. The Indian Health Service Model is in Need of Reform and Reorganization

The current system is top heavy. It is failing Indian Country. Tribes and tribal governments are blamed by our members, but we are largely powerless to make the changes that are actually needed to ensure access to quality health care for our citizens. Although some tribes have the means to supplement the federal monies available and provide health insurance for their members, that is not the case for many tribes, such as the Crow Tribe. The Indian Health Care Improvement Act, as reauthorized, enables Tribes to secure federal health insurance for their employees, but there is a cost associated with these programs. Unfortunately, this type of an expense is simply not an option for tribes with little to no budget for these types of benefits.

Staffing and management have been ongoing challenges for the Crow Service Unit. There have been a number of leadership shuffles over the past several years, with many acting CEOs, and many CEOs who only stayed in the position for one or two years before being ousted. The instability in leadership have been devastating to the morale of the staff at the facility. In order to bring the Crow Service Unit to the level it needs to be, strong, stable leadership is needed. We are hopeful that the new CEO, Clayton Old Elk, who is also a Crow Tribal member, will be able to implement the changes needed to bring improvement.

CONCLUSION

The people of the Crow Nation deserve and have a right to quality health care. The federal government has a trust responsibility to provide this service, both by the terms of treaties executed between the Crow Tribe and the federal government, as well as pursuant to federal statutes and regulations. Today, the situation here is alarming on many levels. The reality is that

people are suffering, and many are dying because they simply do not have access to the health care that they need to survive and thrive. We have a facility that is deteriorating without the funding needed to keep it running properly, and to expand and upgrade it to meet the needs of a rapidly growing population.

The Crow Service Unit has been plagued by a revolving door in leadership, which has prevented accountability for the issues plaguing this facility. The funding for the Service Unit is inadequate and does not sufficiently provide for the services and facilities needed by our user population. The Billings Area has repeatedly told us, over the past two years, that they have implemented new structures, brought in new personnel, to help address the longstanding problems. In our view, the leadership of the Billings Area Office has been incompetent and has done little to hold accountable those individuals who have prevented change and improvements needed. The Crow Tribe has no confidence in the Billings Area at this point in time, and we believe a full outside administrative audit needs to be conducted as soon as possible. We have asked for this to happen repeatedly, and we still believe it is needed. These issues need immediate, prolonged, and thoughtful attention.

Exhibit 1

2010 Collections CR	Medicare	Medicaid	Private Ins	Total PI/M/M
Total	2,130,212	3,564,092	1,412,168	7,106,472

2011 Collections CR	Medicare	Medicaid	Private Ins	Total PI/M/M
Total	$1,717,974	$3,899,117	$1,674,017	$7,291,109

2012 Collections	$869,655	$3,686,698	$1,108,603	$5,664,955

Exhibit 2

CROW SERVICE UNIT CONTRACT HEALTH SERVICE INFO FY10 - FY12 (ytd)

	FY2010	FY2011	FY2012
Recurring Allowance	$ 7,404,533	$ 7,404,533	$ 7,970,332
CHEF Funded	$ 1,009,727	$ 1,901,276	$ 781,281
CHEF Unfunded	$ 135,210	$ 1,033,462	$ 319,072

Exhibit 3

CROW SERVICE UNIT SERVICES	FY 2010	FY2011	FY2012
HOSPITALS & CLINICS	$ 14,696,131	$ 14,696,132	$ 14,672,618
DENTAL	$ 1,415,637	$ 1,415,637	$ 1,413,372
MENTAL HEALTH	$ 662,396	$ 662,396	$ 661,336
ALCOHOL & SUB ABUSE	$ 1,391,726	$ 1,391,725	$ 1,389,498
PUBLIC HEALTH NURSING	$ 727,335	$ 725,880	$ 724,719
HEALTH EDUCATION	$ 266,103	$ 265,571	$ 265,146
COMMUNITY HEALTH REPRESENTA TIVES	$ 629,509	$ 628,250	$ 627,245
DIRECT OPERATIONS	$ 10,959	$ 10,937	$ 10,920
CONTRACT SUPPORT COSTS	$ 683,488	$ 682,121	$ 591,435
CONTRACT HEALTH SERVICES	$ 7,404,534	$ 7,404,534	$ 7,970,332
TOTAL SERVICES APPROPRIATION	$ 27,887,818	$ 27,883,183	$ 28,326,621
FACITILIES			
ENVIRONMENTAL HEALTH SUPPORT	$ 101,863	$ 175,469	$ 193,246
FACITILIES SUPPORT	$ 411,959	$ 1,338,566	$ 1,008,111
MAINTENANCE & IMPROVEMENT	$ 254,435	$ 250,618	$ 263,187
EQUIPMENT	$ 146,579	$ 139,441	$ 136,568
TOTAL FACILITES APPROPRIATION	$ 914,836	$ 1,904,094	$ 1,601,112
GRAND TOTAL	$ 28,802,654	$ 29,787,277	$ 29,927,733

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